IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4853 OF 2006

Vijay F. Chougule ....Petitioner
V/s.
The State of Maharashtra & Ors. ....Respondents

Mr.Umesh Mankapure for the Petitioner.
Mr.P.P. Kakade, AGP for Respondent No.1.

CORAM : F.I. REBELLO, &
S.J. VAZIFDAR, JJ.
DATED : 1ST MARCH, 2007.

P.C. :

1. Rule. Heard forthwith.

2. The Petitioner had appeared in the test for selection to the post of Civil Judge Junior Division and Judicial Magistrate First Class (C.J.J.D. & J.M.F.C.). The Petitioner secured 115 marks. Like the Petitioner, various other candidates also have secured 115 marks. As other candidates who had secured 115 marks, were offered appointment and the Petitioner was not, the Petitioner has approached this Court.

3. A reply has been filed on behalf of the Maharashtra Public Service Commission by Mr.R.S. Rane, Superintend. It is pointed out that there were

13 candidates along with the Petitioner who had secured 115 marks. Out of 13 candidates, only 5 could be recommended as total number of vacancies which had been filled in in terms of the advertisement was for 250 posts. In respect of 13 candidates who had secured 115 marks, criteria was followed for the purpose of inter-se seniority amongst them. Based on that, the Petitioner was falling within the first five candidates.

. According to the Petitioner, some of the candidates who were selected are either not eligible or have refused the offer of appointment. According to the Petitioner he stands at serial No.251 and there are vacancies in the post. In the affidavit of Mr.Rane, it is further set out that in such a situation the Government has to send the requisition to the Commission regarding the number of vacant posts and on a request to the Commission to recommend candidates from the waiting list, the Commission can send required number of candidates from the waiting list in accordance with their merit. In terms of the notification dated 10.10.2003, the Commission in fact has prepared a waiting list.

4. An affidavit in reply has also filed by

Mr.Virsinha Murlidhar Patil, Under Secretary (Legal). In the said affidavit, it is pointed out that in the select list of 250 candidates, the name of Mr.M.N. Phatangare is appearing. The said Mr.Phatangare in fact has been selected in the year 2004 but because of delay in his medical report, he was not issued a letter of appointment. That candidate also appeared in the examination conducted in 2005. Mr.Phatangare however, has been issued a letter of appointment for the vacancy which arose in the year 2004 and as such out of 250 candidates only 249 candidates have been issued letters of appointment. It is then pointed out that the process for appointment of 210 candidates from the select list has been completed. After scrutiny, appointments have been issued to 199 candidates and they have been posted. The process of giving appointments to 35 candidates is under way and in respect of the remaining candidates required information is called for and the same is awaited from the respective authorities. It is also pointed out that out of 245 candidates, the High Court by the letter dated 15.2.2007 has informed that 2 candidates are not fit for appointment as Civil Judge, Junior Division. In other words, three vacancies immediately arise.

. There is an acute shortage of judicial officers. In these circumstances, it is imperative that every vacancy has to be filled in at the earliest. In the light of the matter, this Petition can be disposed of by issuing the following directions :-

i). Respondent No.1 is directed to call for the names of candidates from the waiting list as prepared by Respondent No.2 in the order of merit list within two weeks from today, to fill in those vacancies.

ii). On receiving the names, to commence the process of issuing offers of appointment and completing the process at any rate not later than 16 weeks from the date of receipt of the names.

iii). If there be any further in the vacancies the 250 posts, then to follow the same procedure by calling the names from the wait list prepared by M.P.S.C. and complete the process not later than 20 weeks from the vacancies coming to their knowledge.

5. Rule is made absolute accordingly. There will be no order as to costs.

(S.J. VAZIFDAR, J.) (F.I. REBELLO, J.)